

REMARKS / ARGUMENTS

I. General Remarks

Please consider the application in view of the following remarks. Applicants thank the Examiner for his careful consideration of this application.

As requested by the Examiner on page 2 of the Office Action mailed June 15, 2005, a “clean copy” of the claims without underlining, strikethrough, or words in bold font is submitted concurrently herewith. Should the Examiner require anything else in this regard, please feel free to contact the undersigned.

II. Disposition of Claims

Claims 1-55 are pending. Claims 1, 2, 3, 5, 8, 11, 14, 18, 22, 25-27, 29, 32, 35, 38, 42, 46, 49, and 50 have been amended to clarify certain embodiments of the present invention. Applicants gratefully acknowledge Examiner’s designation of claims 50-55 as allowable subject matter.

III. Remarks Regarding the 35 U.S.C. § 103(a) Rejection

A. *Card in view of Smith*

Claims 1-6, 8-9, 13-15, 17-19, 25-30, 32, 33, 37-39, and 41-43 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,877,127 issued to Card *et al.* [hereinafter *Card*] in view of U.S. Patent No. 5,224,546 issued to Smith *et al.* [hereinafter *Smith*]. Applicants respectfully traverse.

A prima facie case of obviousness requires a showing that all claim limitations be taught or suggested by the art. M.P.E.P. § 2143.03. Applicants respectfully submit the combination of *Card* and *Smith* fails to yield a process within the scope of the amended claims. *Card* and *Smith* fail to form a proper basis for a prima facie case of obviousness, because they fail to teach all of the limitations of the claimed invention.

In particular, as to independent as amended claims 1 and 25, the cited references do not contain any teaching of “a delayed cross-link delinker wherein the delayed cross-linker is polysuccinimide or polyaspartic acid.” As neither of the cited references contain any teaching of either a polysuccinamide or a polyaspartic acid delinkers, the cited references cannot form a proper basis for a prima facie case of obviousness.

The Examiner writes, in part, as follows:

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a delayed cross-linker, as taught by Smith et al. and suggested by Card et al., to the Card et al. composition in order to reduce viscosity to remove the treating fluid (Smith et al., col. 2, lines 11-14).

(*See Office Action* at 3.) Applicants respectfully submit that no motivation or suggestion has been shown in the cited references themselves that would motivate a person of ordinary skill in the art to combine the cited references. As provided in M.P.E.P. § 2144.03(C), a conclusion as to the supposed action of a person of ordinary skill in the art is *insufficient* to establish a prima facie case of obviousness. To the extent that Examiner relies on such a statement to supply the necessary motivation to modify the prior art reference in this action or in any future action, Applicants hereby respectfully traverse the lack of such a showing and request under M.P.E.P. § 2144.03(C) that the Examiner supply an affidavit or other documentary proof establishing the prior art knowledge that would have motivated a person of ordinary skill in the art to make the modification to the prior art to arrive at the specific combination of elements in Applicants' invention. Even so, the cited references, even if taken in combination, still fail to show each and every element of the claimed invention as explained above.

Thus, for at least these reasons, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection as to independent claims 1 and 25 and correspondingly as to dependent claims 2-6, 8-9, 13-15, 17-19, 26-30, 32, 33, 37-39, and 41-43, which depend, either directly or indirectly, from independent claims 1 and 25.

B. Card in view of Smith and further in view of McCabe

Claims 21-23 and 45-47 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,877,127 issued to Card *et al.* [hereinafter *Card*] in view of U.S. Patent No. 5,224,546 issued to Smith *et al.* [hereinafter *Smith*] and further in view of U.S. Patent No. 6,024,170 issued to McCabe *et al.* Applicants respectfully traverse.

As a prima facie case of obviousness has not been shown against independent claims 1 and 25 as shown above, an obviousness rejection against any dependent claim thereof must fail as well. As such, the 35 U.S.C. § 103 rejection as to dependent claims 21-23 and 45-47 should be withdrawn.

A prima facie case of obviousness requires a showing that all claim limitations be taught or suggested by the art. M.P.E.P. § 2143.03. Applicants respectfully submit the

combination of *Card*, *Smith*, and *McCabe* fail to yield a process within the scope of the amended claims. *Card*, *Smith*, and *McCabe* fail to form a proper basis for a *prima facie* case of obviousness, because they fail to teach all of the limitations of the claimed invention.

In particular, as to dependent claims 21-23 and 45-47, the cited references do not contain any teaching of “a delayed cross-link delinker wherein the delayed cross-linker is polysuccinimide or polyaspartic acid.” As neither of the cited references contain any teaching of either a polysuccinamide or a polyaspartic acid delinker, the cited references cannot form a proper basis for a *prima facie* case of obviousness.

The Examiner writes, in part, as follows:

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use dodecylbenzene sulfonic acid as a surfactant in the combination composition since it is a well known surfactant in a boron type cross-linking agent containing composition (McCabe et al., col. 4, line 45).

See Office Action at 3. Nevertheless, the cited references, even if taken in combination, still fail to show each and every element of the claimed invention as explained above. Further, as provided in M.P.E.P. § 2144.03(C), a conclusion as to the supposed action of a person of ordinary skill in the art is insufficient to establish a *prima facie* case of obviousness. To the extent that Examiner relies on such a statement to supply the necessary motivation to modify the prior art reference in this action or in any future action, Applicants hereby respectfully traverse the lack of such a showing and request under M.P.E.P. § 2144.03(C) that the Examiner supply an affidavit or other documentary proof establishing the prior art knowledge that would have motivated a person of ordinary skill in the art to make the modify the prior art to arrive at the specific combination of elements in Applicants’ invention.

Thus, for at least these reasons, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection as to dependent claims 21-23 and 45-47.

SUMMARY

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no fees are due in association with the filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for extensions of time, the Commissioner is authorized to debit the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300, for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,



Robert A. Kent
Registration No. 28,626
Halliburton Energy Services, Inc.
2600 South Second Street
P.O. Drawer 1431
Duncan, OK 73536-0440
Telephone: 580-251-3125

Date: September 8, 2005

ATTORNEY FOR APPLICANTS